



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-49788-2017

Date of decision: 25.11.2024

Arjun Singh and others

...Petitioners

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Satbir Rathore, Advocate for the petitioners.

Mr. P.K. Aggarwal, DAG, Haryana.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioners under Sections 482 Cr.P.C seeking quashing of criminal complaint No.90 of 2013 titled Rahul Vs. Arjun Singh and others (Annexure P-5) and summoning order dated 11.09.2017 (Annexure P-6) passed by the Court of Judicial Magistrate Ist Class, Karnal and all the subsequent proceedings arising therefrom.

2. Complainant/respondent No.2 filed criminal complaint against the petitioners wherein it was alleged that on 28.05.2012, petitioner No.2 Sachin, petitioner No.3 Suman and Ashish son of Rattan Singh caused injuries to Naurti Ram real uncle of the complainant and his wife and their son Manish. FIR No.123 dated 29.05.2012 was registered in Police Station Kunjpura regarding aforesaid incident and the trial is pending in the Court of ACJM, Karnal. Thereafter on 09.06.2012 at about 6/6:30 PM, complainant was going to his field for cutting of fodder. In the meantime, all the petitioners came on a motor cycle No.HR05P1679 and intercepted the complainant. The motor cycle was driven by petitioner No.2 and petitioner No.1 was armed with sword and he gave sword blow but the complainant stepped back and sword hit on his right arm. Petitioner No.3



was armed with iron rod and he gave its blow on right hand of the complainant while petitioner No.2 gave *danda* blows on left arm and elbow of the complainant. All three of them further gave slap, fist and kick blows and also abused the complainant and then, they forcibly lifted the complainant, in order to throw him in the near by canal but in the meantime, certain residents of the village came there on hearing the alarm raised by the complainant. On this, the petitioners fled away from there.

3. During preliminary evidence, complainant appeared in the witness box as CW-6 and also examined CW-1 Salender, CW-2 Ram Kumar, CW-3 Virender, CW-4 ESI Dharambir and CW-5 Dr. Nipun Kalra who proved copy of MLR and x-ray report of the complainant.

4. On the basis of the aforesaid preliminary evidence, the learned trial Court summoned the petitioners under Sections 323, 324, 326, 341, 506 read with Section 34 IPC, vide order Annexure P-6 dated 11.09.2017, to face trial in criminal complaint (Annexure P-5).

5. Being aggrieved, the petitioners have filed the present petition seeking quashing of complaint Annexure P-5 and summoning order Annexure P-6.

6. The counsel for the petitioners *inter alia* submits that the complaint Annexure P-5 was filed by respondent No.2 to counter-blast FIR No.129 dated 10.06.2012, which was got registered by petitioner No.1 against complainant Rahul, Pankaj and Sukhwinder, under Sections 323, 341, 325, 307, 364 read with Section 34 IPC and 25 of Arms Act, Police Station Kunjpura, which was relating to occurrence which had taken place on 09.06.2012. It is further submitted that in the said criminal case, complainant, Pankaj and Sukhwinder were convicted under Sections 323 and 341 read with Section 34 IPC but released on probation by the Court of Additional Sessions Judge, Karnal vide judgment and order dated Anneuxre P-2 dated 28/29.04.2015. The counsel for the petitioners further submits that with regard to alleged incident as narrated in impugned complaint Annexure P-5, the petitioners reported the matter to the police and police recorded the statement of complainant Rahul, but the incident was found to be doubtful, as is evident from Annexure P-3.



Thereafter, complainant gave another complaint Annexure P-4 which was addressed to SSP, Karnal, but police did not take any action even on the said complaint, as there was no truth in the allegations made in the said complaint. That thereafter, complainant filed complaint Annexure P-5 and while doing so, the complainant did not refer to Annexure P-3 and Annexure P-4 in the impugned complaint and thus, concealed material facts from the Court. It is further submitted that the alleged occurrence took place on 09.06.2012 whereas the impugned complaint Annexure P-5 was filed in the Court concerned on 08.05.2013. The complainant failed to explain the delay in filing of the impugned complaint in any manner. It is further submitted that the summoning order Annexure P-6 dated 11.09.2017 was passed after the passing of judgment Annexure P-2 whereby the complainant and his accomplices were convicted. The counsel for the petitioners has further argued that the complaint Annexure P-5 is totally false and summoning order Annexure P-6 was passed by the trial Court without following the procedure provided in Section 210 Cr.P.C. It is further submitted that the allegations made by the complainant in Annexure P-3, Annexure P-4 and Annexure P-5 are not consistent.

7. The State counsel submits that Annexure P-5 is a private criminal complaint wherein summoning order Annexure P-6 was passed. It is further submitted that State has nothing to do with Annexure P-5 and Annexure P-6.

8. I have considered the submissions made by counsel for the petitioners and the State counsel.

9. As per the allegations made in the complaint Annexure P-5, the alleged occurrence took place on 09.06.2012 at about 6/6:30 PM. The said complaint was presented before the Court concerned on 08.05.2013. The complainant has not detailed any reason in complaint Annexure P-5 regarding the delay which occurred in filing of the complaint. The learned trial Court while passing the summoning order Annexure P-6 has nowhere discussed the delay of about 11 months in filing of the complaint and the reason if any given by respondent No.2/complainant regarding delay in lodging of the complaint.



10. From the perusal of Annexure P-3, it appears that at the first instance, respondent No.2 reported the matter to the police on 10.06.2012 and got recorded his statement wherein he stated that at the time of occurrence on 09.06.2012, petitioner No.3 Suman, caught hold of respondent No.2 while petitioner No.2 Sachin attacked respondent No.2 and caused injuries to him with the help of iron pipe and petitioner no.1 Ajit Singh, caused injuries to respondent No.2 with the help of sword. From the perusal of the police proceedings which are also part of Annexure P-3, it appears that the police found that the occurrence was doubtful as the concerned doctor gave note in MLR that the injuries being caused by friendly hand cannot be ruled out. From the perusal of Annexure P-4, it appears that thereafter, respondent No.2 gave complaint in writing with regard to incident in question to the Superintendent of Police, Karnal, wherein he changed the version and alleged that at the time of occurrence, petitioner No.2 was armed with *danda* while petitioner No.3 was armed with iron rod and they along with petitioner No.1 who was armed with sword, caused injuries to respondent No.2. It appears that respondent No.2 further made improvement in complaint Annexure P-4 by alleging that the petitioners also tried to kidnap by forcibly lifting him with intention to throw him in a canal. It appears that the police authorities did not take any action even on the basis of complaint Annexure P-4 which was dated 12.06.2012. After gap of about 11 months, the impugned complaint Annexure P-5 was lodged by respondent No.2 against the petitioners wherein again it was alleged that at the time of occurrence, petitioner No.1 Arjan Singh was armed with sword, petitioner No.2 Sachin was armed with wooden danda while petitioner no.3 Suman was having iron rod and they caused injuries to respondent No.2 with their respective weapons and they tried to kidnap the respondent No.2 with intention to throw him in the canal. The allegations made by respondent No.2 in Annexure P-3 are at variance with those in Annexure P-4 and P-5 wherein the petitioner no.2 was stated to be armed with wooden danda while in Annexure P-3, petitioner no.2 was shown to be armed with iron pipe and further in Annexure P-3, there was no allegation that the petitioners also tried to



kidnap the respondent No.2 in order to drown him in a canal.

11. From the perusal of judgment Annexure P-2 dated 28.04.2015, it appears that FIR No.129 dated 10.06.2012, under Sections 323, 341, 325, 307, 364 read with Section 34 IPC and under Section 25 of Arms Act was registered against complainant Rahul and his accomplices Pankaj, Sukhwinder and Jai Pal, in Police Station Kunjpura, with regard to incident which took place on 6:30 PM on 09.06.2012, wherein complainant Rahul and his accomplices intercepted motor cycle of petitioner no.1 Arjan Singh and then assaulted him and then Rahul and Sukhwinder forcibly took petitioner no.1 to their field with intention to kill him and they again started giving beatings to petitioner no.1. The FIR relating to said incident was recorded on the next day of the occurrence and complainant Rahul and his accomplices faced trial and finally, complainant Rahul, Pankaj and Sukhwinder were convicted under Sections 323 and 341 read with Section 34 IPC and they were released on probation. The occurrence in question which is narrated in complaint Annexure P-5 is also stated to have taken place at 6:30 PM on 09.06.2012. However, the complaint Annexure P-5 is silent with regard to registration of FIR No.129 dated 10.06.2012 against the complainant and his accomplices. Further, it is apparent that respondent No.2/complainant concealed the material facts regarding registration of aforesaid FIR No.129 against him and with regard to lodging of earlier complaints Annexure P-3 and Annexure P-4 relating to incident in question with the police, in the impugned complaint. Respondent No.2 also kept in dark, the learned trial Court regarding his conviction in case having FIR No.129 dated 10.06.2012 and procured summoning order Annexure P-6 dated 11.09.2017 by with holding the fact regarding passing of judgment Annexure P-2 dated 28.04.2015 against him. Further, at the time of filing of complaint Annexure P-5, as the trial Court was not informed by respondent No.2 with regard to registration of aforesaid FIR and lodging of complaint Annexure P-3 by him with the police, the trial Court failed to comply with the provisions of Section 210 Cr.P.C which also caused prejudice to the petitioners.

12. As a sequel of above discussion, this Court is of the view that



the impugned criminal complaint Annexure P-5 is maliciously instituted with an ulterior motive and was lodged by respondent No.2 by way of counter-blast to FIR No.129 dated 10.06.2012. The impugned criminal complaint Annexure P-5 being manifestly attended with *malafide* is clearly abuse of the process of Court and law as well and the prosecution of the petitioners on the basis of complaint Annexure P-5 cannot be allowed, as per the law laid down by Hon'ble Supreme Court in ***State of Haryana and others Vs. Bhajan Lal 1992 Supplementary (1) SCC 335***. It is a fit case in which inherent jurisdiction of this Court under Section 482 of Cr.P.C may be invoked.

13. Consequently, the present petition is allowed and impugned criminal complaint Annexure P-5 and all the subsequent proceedings arising therefrom including summoning order Annexure P-6 dated 11.09.2017 are hereby quashed.

25.11.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**